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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/045,724
Filing Date: October 26, 2001
Appellant(s): HUDDLESTON ET AL.

Charles Bethards
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 7, 2008 appealing from the Office action mailed January 28, 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US 20030151538 A1	Escobosa, Marcus et al.	08-2003
US 20020140571 A1	Hayes, Patrick H. et al.	10-2002
US 6748278 B1	Maymudes; David M.	06-2004

US 20030197930 A1 Baun, Kenneth W. et al. 10-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-3, 5, 8, 9, 11-13, 15, and 17-22 are rejected under 35 USC 103(a) as being unpatentable over Escobosa et al. (US 2003/0151538) (hereinafter Escobosa) in view of Hayes et al. (US 2002/0140571) (hereinafter Hayes).

1. Referring to claim 1, Escobosa discloses a method for command brokering on behalf of an intelligent device (i.e. home theater equipment) (e.g. abstract) which discloses:

defining in a client device a desired function to be performed by the intelligent device (i.e. various operations), the desired function being only a portion of all functions that the intelligent device is capable of performing (i.e. the system only downloads IR sequences to perform various operations such as channel tuning to a particular TV station, setting up various equipment, etc.) (¶ 65);

identifying the intelligent device and the desired function to a web site (i.e. supplier site 30) having control instructions for the intelligent device by the client device through a network (Figure 4a; ¶ 66);

returning to the client device from the web site, a subset of the control instructions (i.e. sequences) for controlling the intelligent device to perform the desired

function (i.e. user access the web site to download sequences of pre-programmed instructions to perform various operations) (¶ 65-66); and

forwarding only a subset of the control instructions from the remote control to the intelligent device to effect the desired function (i.e. when the user purchases a pay-per-view movie, the icon and code for unlocking the movie are downloaded to the remote controller, no other codes are downloaded to the remote) (¶ 65-67) (¶ 45: "Using a 'drag-and-drop' interface…the user configures the blank keys on the displayed remote to contain the specific functions he desires. When completed, the computer then downloads the custom configuration into the remote);

wherein the client device does not have a compete set of the control instructions for the intelligent device (i.e. only those functions the user "drags-and-drops" onto the layout of the remote control will be used on the remote) (Figure 5b; ¶ 45, 56, 65, and 67).

Escobosa does not disclose that the defining is done using the wireless internet access device (i.e. the remote control), rather the remote is defined using a program running on the PC and then the layout is downloaded to the remote. In analogous art, Hayes discloses another method for programming a remote control with particular functions which discloses defining on the remote control itself the layout for the remote control (i.e. via setup application 501 and personalization sub-menu 503 configures the remote to the user's liking) (Figure 5; ¶ 123-130). It would have been obvious to one of ordinary skill in the art to combine the teaching of Escobosa with Hayes since Hayes teaches a modifying a similar remote control to that of Escobosa using only the remote

control, therefore providing motivation to one of ordinary skill in the art to provide the application used in Escobosa on the remote control in order to realize the benefits used in Hayes, specifically to not require the use of a PC to reprogram a remote control, thereby making it easier for a user to reprogram the remote control.

2. Referring to claim 2, Hayes discloses the forwarding step comprises forwarding through an infrared communication device (¶ 45).

3. Referring to claim 3, Escobosa discloses forwarding through an RF interface (¶ 45).

4. Referring to claim 5, Escobosa discloses the defining step comprises defining through a user keypad entry (i.e. touchpad) (col. 23, line 59 to col. 24, line 31).

5. Referring to claim 8, Escobosa discloses arranging for the web site to have access to the control instructions by pre-programming the control instructions into a memory of the web site (i.e. server with database 12) (Figure 1).

6. Referring to claim 9, Escobosa discloses accessing a server 30 having the control instructions 14 for controlling the intelligent device (Figure 1; ¶ 47).

7. Claims 11-13, 15, and 17-22 are rejected for similar reasons as stated above. Furthermore Escobosa discloses that the device explicitly identifies the function to the web site to perform a set of functions (¶ 56, 65-67).

Claims 4, 6, 7, 14, 16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Escobosa-Hayes in view of Maymudes (USPN 6,748,278).

8. Referring to claim 4, Escobosa-Hayes discloses the invention substantively as described in claim 1. Escobosa-Hayes does not disclose forwarding through ultrasonic communication device. In analogous art, Maymudes discloses another method of brokering on behalf of an intelligent device wherein the forwarding can occur through an ultrasonic communication device (i.e. Bluetooth) (col. 3, lines 20-32). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Maymudes with Escobosa-Hayes since Escobosa discloses the invention can be used with a plurality of different devices (Figure 4a). This would lead one of ordinary skill in the art to determine which other devices can be used for brokering command, eventually finding Maymudes finding a command broker for televisions, stereos, VCR's speakers, microwave ovens, etc (col. 7, lines 40-50).

9. Referring to claim 6 and 7, Escobosa-Hayes discloses the invention substantively as described in claim 1. Escobosa-Hayes does not disclose defining said desired function is made by a measurement by the WIAD. In analogous art, Maymudes

discloses another method of brokering on behalf of an intelligent device wherein defining said desired function is made by a measurement by the WIAD (I.e. computer facilitator 202) (col. 5, lines 35-43). Furthermore, since the WIAD is connected to the wireless network, and also the remote controller 204 and controlled device 206 are as well, it is considered that the measurement is done by the wireless communication network as well.). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Maymudes with Escobosa-Hayes since Escobosa discloses the invention can be used with a plurality of different devices (Figure 4a). This would lead one of ordinary skill in the art to determine which other devices can be used for brokering command, eventually finding Maymudes finding a command broker for televisions, stereos, VCR's speakers, microwave ovens, etc (col. 7, lines 40-50).

10. Claims 14, and 16 are rejected for similar reasons as stated above.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Escobosa-Hayes in view of Baun et al. (US 2003/0197930) (hereinafter Baun).

11. Escobosa-Hayes discloses the invention substantively as described in claim 1. Escobosa-Hayes does not disclose the intelligent device is a telescope and the defining step comprises determining coordinates based on a position. In analogous art, Baun discloses another method for brokering control which discloses intelligent device is a

telescope (e.g. abstract) and the defining step comprises determining coordinates based on a position (p. 8, ¶ 87). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Baun with Escobosa-Hayes since Escobosa discloses the invention can be used with a plurality of different devices (¶47). This would lead one of ordinary skill in the art to determine which other intelligent devices can be used for brokering command, eventually finding Baun finding a command broker for GPS systems for telescopes (col. 7, lines 40-50).

(10) Response to Argument

Appellant's arguments (Brief, pages 12-19) have been fully considered and are addressed below.

Appellant argues, in substance, that Escobosa does not disclose "the client device does not have a complete set of the control instructions for the intelligent device" (pages 12-15). The Examiner disagrees. Appellant's attention is directed to Fig. 5b and ¶ 56 of Escobosa. Fig. 5b shows a process of an interactive configuration of the customized remote control. The user selects a type/brand/mode of the particular device to be configured, and is then presented with a selection 66a of all the possible key functions tailored to this device/brand. The user is then able to "drag and drop" key functions onto the remote control as desired. The example shown in Escobosa clearly shows that certain key functions (TV/Video, Sleep, SRS, Hue+) have already been

added, and the user is currently dragging another function (Hue-) to the remote key layout 23. The newly configured keys are displayed with the configured, or assigned, function 64 in an assignment table 66 (¶ 59). These functions would be added to the remote when the configuration is downloaded onto the actual remote, whereas the other key functions found on the selection 66a (i.e. Video1, Chan Lock, Guide, etc.) are left on the selection palette. Their configuration is not added to the remote and therefore their functionality would not be downloaded into the remote control. One of ordinary skill in the art would clearly understand that, based on the disclosure of Escobosa, the remote control would "not have a complete set of the control instructions [read: functions] for the intelligent device" as stated in claim 1. By this rationale, Escobosa clearly reads on the limitation in question and therefore the rejection should be maintained.

Appellant argues, in substance, that it cannot be ascertained how configuring a remote control by reassigning keys within the remote to particular functions as taught by Hayes et al. teaches or suggests the features that are missing from Escobosa et al, i.e. defining in a WIAD a desired function to be performed by the intelligent device. The Examiner disagrees that the combination fails to teach all the claimed features. Escobosa clearly teaches defining a desired function to be performed by the intelligent device (i.e. "drag-and-drop" key functions that, when selected, will effect the desired function on the intelligent device; depressing the 'sleep' button on the remote will perform the requisite 'sleep' function on the intelligent device, etc.) (see rejections above, also ¶ 56, 59). Escobosa, however, teaches the defining of "a desired function

to be performed by the intelligent device" is conducted in a User Computer 24, and then is downloaded into the universal remote 10 via communication line 20 (Fig. 1; ¶ 47). Hayes demonstrates that the key defining as seen in Escobosa can be done within the universal remote itself (see rejection above, i.e. Figure 5; ¶ 123-130). By combining the drag-and-drop funcitonalities of Escobosa with the key personalization menus of Hayes would allow a user to redefine the menus for a particular device without the need of the user computer 24 of Escobosa, which would lead to a considerable savings in configuration time for the user since the user would not have to connect the remote to the computer, launch the setup application, dial into the website, define the particular device and configuration, and then download the configuration into the device, rather a user would simply be able to access this information directly from the remote which can be connected to the Internet (Escobosa: 28). By this rationale, the combination of Escobosa-Hayes clearly meet the claimed limitations and therefore the rejection should be maintained.

Appellant reiterates the same arguments for the other independent claims 11, 18, and 21 (pages 16-18), and therefore the Board is respectfully referred to the above.

Appellant indicates that dependent claims 4, 6, 7, and 14 are patentable by virtue of their dependency from independent claims 1 or 11 (page 19), however no new substantive argument has been provided.

Appellant indicates that dependent claim 10 is patentable by virtue of its dependency from claim 1 (page 19), however no new substantive argument has been provided.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Joseph E. Avellino/

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